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[1] Text with EEA relevance.

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(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

COMMISSION NOTICE

Guidance document on steps to be taken by EU Member States in the case of doubts as to the legality of timber from CITES-listed species imported into the EU

(2018/C 376/01)

STEPS TO BE TAKEN BY EU MEMBER STATES IN THE CASE OF DOUBTS AS TO THE LEGALITY OF TIMBER FROM CITES-LISTED SPECIES IMPORTED INTO THE EU

The purpose of this notice is to provide guidance to the competent authorities of the EU Member States in relation to the implementation of the EU Wildlife Trade Regulations ([1]), in situations where shipments of timber from species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are being imported into the EU with an export permit delivered by the authorities of an exporting country, but where there are doubts that the wood was harvested in compliance with the applicable legislation in the country of harvest.

1. **Background information**

Pursuant to the EU Wildlife Trade Regulations, an EU Member State's CITES management authority may issue a CITES import permit only if the exporting country issued an export permit in accordance with the CITES Convention ([2]). This presupposes, inter alia, that the exporting country was 'satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora' ([3]).

According to Article 7(6) of Regulation (EC) No 865/2006, as amended by Commission Regulation (EU) 2015/870 ([4]), 'Export permits and re-export certificates issued by third countries shall be accepted only if the competent authority from the third country concerned provides, where requested to do so, satisfactory information that the specimens were obtained in accordance with the legislation on the protection of the species concerned'.

Article 7(6) of Regulation (EC) No 865/2006 applies to all specimens for which export permits need to be issued under Regulation (EC) No 338/97, but it is particularly relevant to timber species. Recent examples have shown that EU Member States are faced with situations where they have to process applications for import permits for CITES-listed timber for which serious doubts exist as to the legal origin of the shipment. The shipments are accompanied by a valid export

([1]) Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1) and its implementing regulations, in particular: Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 166, 19.6.2006, p. 1); Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein and amending Commission Regulation (EC) No 865/2006 (OJ L 242, 7.9.2012, p. 13); and Commission Implementing Regulation (EU) 2017/1915 of 19 October 2017 prohibiting the introduction into the Union of specimens of certain species of wild fauna and flora (OJ L 271, 20.10.2017, p. 7).

([2]) Cf. Article 4(2)(c) of Regulation (EC) No 338/97, applying to species listed in Annex B of the Regulation.

([3]) Cf. Article IV(2)(b) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), applying to species listed in Appendix II of the Convention.

([4]) Commission Regulation (EU) 2015/870 of 5 June 2015 amending, as regards the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 (OJ L 142, 6.6.2015, p. 3).

permit issued by the exporting country, which should in principle guarantee that the exporting country has verified the legal origin of the timber. Information from various sources, however, may cast doubt on their legal origin and on whether the exporting country properly checked that the specimens were not obtained in contravention of its legislation on the protection of fauna and flora.

In such a situation, it is important that EU Member States are consistent in their approach and exercise an equivalent degree of scrutiny of the legal origin of the products, which ultimately could lead them to refuse import permits. Consistency across EU Member States should be ensured with the help of the present guidance on the interpretation of Article 7(6) of Regulation (EC) No 865/2006. EU Member States are invited to use the elements listed below on a case-by-case basis and in a way that is proportionate to each of the situations that they have to deal with.

2. **Status of the document**

This guidance document was prepared by Commission staff and a draft was endorsed by the Committee on Trade in Wild Fauna and Flora, established pursuant to Article 18 of Regulation (EC) No 338/97, and thus by the competent authorities of the Member States.

The guidance document is intended to assist national authorities in the application of Regulation (EC) No 338/97. It is not legally binding; its sole purpose is to provide information on certain aspects of Regulation (EC) No 865/2006 and on measures considered to be best practice. It does not replace, add to or amend the provisions of applicable Union law referred to in Section 1 of this document, which remain as the legal basis that must be applied. The document should also not be considered in isolation; it must be used in conjunction with the legislation, and not as a 'stand-alone' reference. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

The document will be published electronically by the Commission, and may be published by the EU Member States. It will be reviewed by the Committee on Trade in Wild Fauna and Flora in 2021.

3. **Guidance on interpretation of Article 7(6) of Regulation (EC) No 865/2006**

Acts of Union law must be interpreted in accordance with their aims. Article 1 of Regulation (EC) No 338/97 provides that the aim of that Regulation is 'to protect species of wild fauna and flora and to guarantee their conservation by regulating trade therein'. The provisions of the Regulation must therefore be construed in a manner consistent with that aim.

Moreover, Article 191(2) of the Treaty on the Functioning of the European Union provides that environmental policy is to be based on the precautionary principle. This implies that if an action or policy risks resulting in serious or irreversible harm to the public or to the environment, the lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent such damage. The principle aims at ensuring a higher level of environmental protection through preventive decision-making in the case of such risks.

In accordance with the consistent case law of the Court of Justice of the European Union, the precautionary principle applies, inter alia, in the interpretation and application of the Union environmental *acquis*, and therefore also to the interpretation and application of Regulation (EC) No 338/97. EU Member States should apply the precautionary principle in exercising their discretion pursuant to Regulation (EC) No 338/97.

Pursuant to Article 7(6) of Regulation (EC) No 865/2006, Member States' CITES authorities need to decide, upon receiving an import application for CITES specimens, whether it is necessary to consult the exporting country. Article 7(6) does not require them to systematically consult the exporting country. It is recommended that EU Member States take a risk-based approach to deciding whether or not they should consult the country in any given case.

a) **What elements should EU Member States consider in order to decide if they need to consult the exporting country?**

EU Member States are invited to consider the following elements:

— Is there information on the exporting country in relation to the implementation of the CITES Convention which suggests that it might not perform sufficient checks to guarantee the legality of the shipment (for example if the country is subject to specific recommendations or compliance measures by the CITES Standing Committee, or if further verification would be required in a similar case under the EU Timber Regulation (EUTR) ([5]), in line with the related guidance document ([6]))?

([5]) Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23).

([6]) Commission Notice of 12.2.2016 — Guidance document for the EU Timber Regulation, C(2016) 755 final – http://ec.europa.eu/environment/forests/timber_regulation.htm

— Is there information from reliable sources which seems to indicate that the timber shipment might not come from legal sources?

— Are there indications that a company in the supply chain has been involved in practices related to illegal logging?

— How complex is the supply chain? How difficult is it to trace the source of the timber?

— Is there a high risk of corruption in the country?

If the information collected when checking the elements above raises serious doubts that the shipment might have been obtained in contravention of relevant species-conservation laws of the exporting country, it is recommended that the EU Member State contacts the CITES management authority of the exporting country (also informing that country's CITES scientific authority and, where available, its FLEGT ([7]) licensing authority/authorities and FLEGT or forestry administration contact points). The prospective importer needs to be made aware of this consultation in the event of significant delays ([8]).

b) **What information should be requested from the exporting country?**

It is suggested that EU Member States consider the following checklist to decide on the questions to ask the exporting country:

— In order to issue an export permit for timber from a CITES Appendix II species, the exporting country needs to be satisfied that the specimen was harvested in compliance with the legislation for the protection of fauna and flora. What is the legislation for the protection of fauna and flora applicable to the products covered by the export permit?

— What system is in place to verify that this legislation has been complied with? In the case of the shipment covered by the export permit in question, how was this system implemented? In particular, what documents were issued and what checks were done to ensure compliance with legality verification requirements?

— Have all operators involved along the supply chain, from the phase of harvest to the phase of export to the EU, been identified (harvest, transport, first and subsequent sales, primary and secondary processing, export)? How was the traceability of the shipment guaranteed along the supply chain in order to make sure that the specimens mentioned in the export permit correspond to the specimens harvested?

If necessary, EU Member States might also invite exporting countries to provide the following specific information, as experience has shown that such elements are often essential to properly assess the legality of a timber shipment:

— full name and address of the exporting company;

— geographic origin of the timber (region, location of the concession and related details);

— year in which the exported timber was harvested, and verification that the timber is exported under the quota of the corresponding year (if there is a CITES export quota or national harvest quota);

— information regarding the management plan, logging permit(s) or felling licence(s) as well as any additional relevant information, depending on the legislation in place in the exporting country;

— information regarding the felling sites (e.g. the plots and the numbers of the trees) from which the timber originates;

— information regarding traceability from felling sites to processing or exportation sites.

([7]) Forest Law Enforcement, Governance and Trade, based on the Communication from the Commission *Forest Law Enforcement, Governance and Trade (FLEGT) — Proposal for an EU Action Plan*, COM(2003) 251, and Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 347, 30.12.2005, p. 1).

([8]) See Article 8(3) of Regulation (EC) No 865/2006.

c) **Under what conditions might the information from the exporting countries be considered 'satisfactory'?**

The reply from the exporting country's CITES management authority to the above questions should be considered by the EU Member State of import with a view to assessing if it provides a consistent and reliable set of information, giving sufficient guarantees that the shipment stems from timber obtained in compliance with the applicable legislation for the protection of fauna and flora in the exporting country. If these conditions are met and there is well-founded confidence that the documents provided are valid and verifiable, the information should be considered satisfactory and the import permit delivered.

If the information provided is deemed insufficient or important elements are missing, it is recommended that EU Member States contact the exporting country to request the missing elements.

If, despite attempts to obtain the information requested, the elements provided by the exporting country in response to the above questions remain insufficient to conclude that the specimens were obtained in accordance with the legislation on the protection of the species concerned, or if no response has been provided, Member States should not issue the corresponding import permit, pursuant to Article 7(6) of Regulation (EC) No 865/2006 ([9]).

In the specific case of exporting countries that have concluded a FLEGT Voluntary Partnership Agreement with the EU, whereby FLEGT licences are issued for timber shipments exported by that country, it may happen that the country's national licensing scheme includes a requirement for shipments of CITES-listed timber to be accompanied by both a CITES export permit and a FLEGT licence ([10]). A FLEGT licence provides additional reassurance about the legal origin of the shipment. In such cases, the management authority may also seek information from the relevant FLEGT licensing authority of the exporting country. It is also recommended that, for those cases where a FLEGT licence is declared for CITES timber, the FLEGT competent authority of the importing EU Member State should be informed ([11]).

d) **What additional actions can be taken to ensure the same level of scrutiny among Member States?**

Member States are invited to share information with other EU Member States and the Commission regarding cases where they were unable to issue an import permit due to non-satisfactory or missing responses from exporting countries to the above questions.

To ensure a common approach at the EU level, the matter could be brought to the attention of the group of experts of the competent CITES management authorities if deemed necessary. On that basis, the expert group could recommend that:

i. the Commission contact the exporting country concerned to convey the concerns about the legality of exports for the species in question and request clarification regarding the elements which led to the refusal to issue the permits;

ii. a suspension be established for imports into all EU Member States for specific species/country combinations, if the information provided by the exporting country further to the Commission's request is deemed insufficient. This could be done on the basis of Article 4(6) of Regulation (EC) No 338/97, which provides that 'in consultation with the countries of origin concerned, in accordance with the regulatory procedure referred to in Article 18(2) and taking account of any opinion from the Scientific Review Group, the Commission may establish general restrictions, or restrictions relating to certain countries of origin, on the introduction into the Community';

iii. the EU bring the matter to the attention of the CITES Secretariat and CITES Standing Committee as part of CITES compliance mechanisms ([12]).

4. **Link with the EU Timber Regulation**

The steps suggested above are especially important since the entry into force in 2013 of the EU Timber Regulation ([13]) (EUTR), which prohibits the placing of illegally harvested timber on the EU market. Further information regarding the verification of legality under the EUTR, and notably the definition of 'applicable legislation' provided in Article 2(h) of that Regulation, is provided in the Annex to this document.

([9]) It is acknowledged that EU Member States are also entitled to refuse to the issuance of an import permit on the basis of Articles 4(1)(e), 4(2)(c) and 4(2)(a) of Regulation (EC) No 338/97.

([10]) This is currently the case of Indonesia, where timber from CITES-listed species are also subject to the Indonesian Timber Legality Assurance system and where a valid V-Legal document/FLEGT licence is required for exporting such timber.

([11]) In line with Commission Notice – Customs and FLEGT Implementation Guidelines – Public Summary (OJ C 389, 4.11.2014, p. 2).

([12]) See Resolution Conf. 14.3 on CITES compliance procedures.

([13]) Regulation (EU) No 995/2010.

Specific rules on CITES-listed timber species are laid down in Article 3 of the EUTR: 'timber of species listed in Annex A, B or C to Regulation (EC) No 338/97 and which complies with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation'. The rationale for that presumption is that – as described above – the CITES Convention places a requirement on its Parties to grant an export permit only where the species was harvested, inter alia, in compliance with the relevant national legislation of the exporting country.

In this context, it is recommended that, within each EU Member State, the CITES management authority, on the one hand, and competent authorities in charge of the implementation of the EU Timber and FLEGT ([14]) Regulations, on the other, cooperate with each other (notably via exchange of information) in order to ensure that the respective regulations are implemented consistently within that Member State. In cases where the CITES management authority in an EU Member State has doubts as to the legality of timber shipments, it should inform its counterpart responsible for the implementation of the EU Timber and FLEGT Regulations and, where appropriate, the relevant enforcement bodies in charge of timber controls, in order to inform their activities. Similarly, the competent authorities responsible for the EU Timber and FLEGT Regulations should also inform their CITES counterparts in cases where they receive information which concerns or may concern CITES-listed species.

To assist Member States in implementing the EUTR, the Commission created a secured platform for EUTR competent authorities, for information-sharing on EUTR-related issues ([15]). Access to this platform can also be granted by the Commission to CITES management authorities, with a view to assisting all relevant authorities in sharing information regarding the legality of timber products imported into the EU. The Commission has also developed a Guidance Document, in collaboration with Member States, in order to address issues related to the implementation of the EUTR ([16]). The Guidance Document can be found on the Commission's website together with other information sources such as briefing notes on developments relevant to the implementation and enforcement of the EUTR.

Other resources are available to obtain information regarding the legal frameworks in place in certain exporting countries ([17]). However, those frameworks may have a broader scope than the definition of legality under CITES, i.e. 'laws of that State for the protection of fauna and flora' in line with Article IV of the CITES Convention.

([14]) Regulation (EC) No 2173/2005.

([15]) http://capacity4dev.ec.europa.eu/eutr-competent-authorities/dashboard

([16]) See footnote 7.

([17]) See for example http://gftn.panda.org/?202483/Framework-for-Assessing-Legality-of-Forestry-Operations-Timber-Processing-and-Trade. This website provides information about the Common Framework for Assessing Legality of Forestry Operations, Timber Processing and Trade (also known as the Common Legality Framework), a checklist developed by the non-governmental organisations WWF/GFTN and TRAFFIC to enable governments and companies to access and understand relevant aspects of the laws, regulations, administrative circulars and contractual obligations that affect forestry operations, timber processing and trade in a number of countries (Brazil, Cameroon, Central African Republic, China, Colombia, Democratic Republic of Congo, Gabon, India, Indonesia, Laos, Malaysia, Myanmar, Peru, Republic of Congo, Russia and Vietnam).

ANNEX

1. **Interplay and differences between the EU Timber Regulation and the EU Wildlife Trade Regulations**

Article 2 paragraphs (f) to (h) of the EU Timber Regulation (EUTR) set out the following definitions:

'(f) "legally harvested" means harvested in accordance with the applicable legislation in the country of harvest;

(g) "illegally harvested" means harvested in contravention of the applicable legislation in the country of harvest;

(h) "applicable legislation" means the legislation in force in the country of harvest covering the following matters:

— rights to harvest timber within legally gazetted boundaries,

— payments for harvest rights and timber including duties related to timber harvesting,

— timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,

— third parties' legal rights concerning use and tenure that are affected by timber harvesting, and

— trade and customs, in so far as the forest sector is concerned.'

Article 4(1) of the EUTR provides that 'the placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited'.

The EUTR thus requires operators ([1]) who place timber products on the EU market for the first time to exercise due diligence in order to prevent illegally harvested timber or timber products derived from such timber from being placed on the EU market.

The EUTR contains a cross-reference to Regulation (EC) No 338/97 in Article 3 (as set out in Section 4). It stipulates that CITES-listed timber products that comply with Regulation (EC) No 338/97 shall be considered to have been legally harvested for the purposes of the EUTR. However, it is important to stress that this presumption is only valid for CITES-listed timber products which actually comply with Regulation (EC) No 338/97 and its implementing provisions.

An important difference between the two regimes is that the prohibition established by the EUTR concerns the 'placing on the market', whereas Regulation (EC) No 338/97 applies from the point of 'introduction into' the EU ([2]). The latter therefore imposes an obligation from the moment that the timber arrives on EU territory, while the EUTR applies after release for free circulation into the market.

Another difference relates to the scope of 'applicable legislation' in Article 2(h) of the EUTR (as cited above) and the scope of legal-acquisition verification pursuant to Regulation (EC) No 338/97 which, in Article 4(1)(b)(i), refers to the 'legislation on the protection of the species concerned'. Legality checks under the EUTR therefore include some elements that go beyond what is required by Regulation (EC) No 338/97.

2. **EU Member States' import permits and 'legal-acquisition findings' by the exporting country for CITES Appendix II specimens**

According to Article 4(1)(b)(i) of Regulation (EC) No 338/97, an import permit can only be issued by an EU Member State with regard to CITES-listed specimens when

'the applicant provides documentary evidence that the specimens have been obtained in accordance with the legislation on the protection of the species concerned which, in the case of import from a third country of specimens of a species listed in the Appendices to the Convention, shall be an export permit or re-export certificate, or copy thereof, issued in accordance with the Convention by a competent authority of the country of export or re-export'.

This provision highlights that the export permit from a third country needs to be issued in accordance with the provisions of the CITES Convention in order to be considered acceptable proof of legal acquisition by the importing EU Member States.

([1]) Any natural or legal person that places timber or timber products on the EU market.
([2]) Article 4 of Regulation (EC) No 338/97.

Pursuant to Article IV(2) of the CITES Convention, on trade in Appendix II specimens,

'an export permit shall only be granted when the following conditions have been met:

(…) (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora (…)';

CITES Resolution Conf. 11.3 (Rev. CoP17) on compliance and enforcement recommends that:

'e) if an importing country has reason to believe that specimens of an Appendix-II or -III species are traded in contravention of the laws of any country involved in the transaction, it:

i) immediately inform the country whose laws were thought to have been violated and, to the extent possible, provide that country with copies of all documentation relating to the transaction; and

ii) where possible, apply stricter domestic measures to that transaction as provided for in Article XIV of the Convention'.

According to Article 7(6) of Regulation (EC) No 865/2006, 'Export permits and re-export certificates issued by third countries shall be accepted only if the competent authority from the third country concerned provides, where requested to do so, satisfactory information that the specimens were obtained in accordance with the legislation on the protection of the species concerned'.

The 17th meeting of the Conference of the Parties to CITES mandated further work on the verification of legal acquisition ([1]). Once this work has come to a conclusion, its outcomes should be considered also in the context of the present guidance.

([1]) CoP17 Decisions 17.65 to 17.68.

Non-opposition to a notified concentration

(Case M.8765 — Lenovo/Fujitsu/FCCL)

(Text with EEA relevance)

(2018/C 376/02)

On 16 April 2018, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ([1]). The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/homepage.html?locale=en) under document number 32018M8765. EUR-Lex is the online access to European law.

([1]) OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration

(Case M.8770 — Prysmian/General Cable)

(Text with EEA relevance)

(2018/C 376/03)

On 8 May 2018, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ([1]). The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/homepage.html?locale=en) under document number 32018M8770. EUR-Lex is the online access to European law.

([1]) OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

COUNCIL DECISION

of 15 October 2018

appointing members and alternate members of the Advisory Committee on Freedom of Movement for Workers for Portugal

(2018/C 376/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union ([1]), and in particular Articles 23 and 24 thereof,

Having regard to the lists of candidates submitted to the Council by the Governments of the Member States,

Whereas:

(1) By its Decision of 28 September 2018 ([2]), the Council appointed the members and alternate members of the Advisory Committee on Freedom of Movement for Workers (the 'Committee') for the period from 25 September 2018 to 24 September 2020.

(2) The government of Portugal has submitted nominations for several posts to be filled,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed members and alternate members of the Advisory Committee on Freedom of Movement for Workers for the period ending on 24 September 2020:

I. GOVERNMENT REPRESENTATIVES

Country	Members	Alternates
Portugal	Ms Isabel VILELAS Ms Helena BENTES	Ms Helena Cristina BARBOSA DOS SANTOS

Article 2

The members and alternate members not yet nominated will be appointed by the Council at a later date.

([1]) OJ L 141, 27.5.2011, p. 1.
([2]) Council Decision of 28 September 2018 appointing the members and alternate members of the Advisory Committee on Freedom of Movement for Workers (OJ C 366, 10.10.2018, p. 3).

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 15 October 2018.

For the Council

The President

E. KÖSTINGER

EUROPEAN COMMISSION

Euro exchange rates [1]

17 October 2018

(2018/C 376/05)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1530	CAD	Canadian dollar	1,4957
JPY	Japanese yen	129,43	HKD	Hong Kong dollar	9,0373
DKK	Danish krone	7,4604	NZD	New Zealand dollar	1,7563
GBP	Pound sterling	0,87945	SGD	Singapore dollar	1,5867
SEK	Swedish krona	10,3148	KRW	South Korean won	1 299,48
CHF	Swiss franc	1,1453	ZAR	South African rand	16,4471
ISK	Iceland króna	137,20	CNY	Chinese yuan renminbi	7,9887
NOK	Norwegian krone	9,4293	HRK	Croatian kuna	7,4165
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	17 489,57
CZK	Czech koruna	25,843	MYR	Malaysian ringgit	4,7881
HUF	Hungarian forint	322,55	PHP	Philippine peso	62,181
PLN	Polish zloty	4,2940	RUB	Russian rouble	75,6506
RON	Romanian leu	4,6658	THB	Thai baht	37,542
TRY	Turkish lira	6,5818	BRL	Brazilian real	4,3090
AUD	Australian dollar	1,6190	MXN	Mexican peso	21,7267
			INR	Indian rupee	84,8915

[1] *Source*: reference exchange rate published by the ECB.

COMMISSION IMPLEMENTING DECISION

of 10 October 2018

laying down the final import response on behalf of the Union concerning the future import of certain chemicals pursuant to Regulation (EU) No 649/2012 of the European Parliament and of the Council and amending Commission Implementing Decision C(2016) 747

(2018/C 376/06)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals ([1]), and in particular the second subparagraph of Article 13(1) thereof,

After consulting the Committee established by Article 133 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([2]),

Whereas:

(1) The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade ('the Convention') is implemented by Regulation (EU) No 649/2012. In accordance with that Regulation, the Commission is to provide the Secretariat of the Convention with final or interim import responses on behalf of the Union concerning the future import of all chemicals that are subject to the Prior Informed Consent procedure (the 'PIC procedure').

(2) At its eighth meeting, held in Geneva from 24 April to 5 May 2017, the Conference of the Parties to the Convention agreed to list certain chemicals in Annex III to the Convention with the effect that they became subject to the PIC procedure. A decision guidance document for each chemical was sent to the Commission on 15 September 2017 with a request for a decision regarding future import of the chemical.

(3) Carbofuran has been added to Annex III to the Convention as a pesticide. The placing on the market and use of carbofuran as a component of plant protection products are prohibited under Regulation (EC) No 1107/2009 of the European Parliament and of the Council ([3]). Furthermore, the placing on the market and use of carbofuran as a component of biocidal products are prohibited under Regulation (EU) No 528/2012 of the European Parliament and of the Council ([4]). Therefore, consent under the Rotterdam Convention should not be given to the future import of carbofuran to the Union.

(4) Trichlorfon has been added to Annex III to the Convention as a pesticide. The placing on the market and use of trichlorfon as a component of plant protection products are prohibited under Regulation (EC) No 1107/2009. Furthermore, the placing on the market and use of trichlorfon as a component of biocidal products are prohibited under Regulation (EU) No 528/2012. Therefore, consent under the Convention should not be given to the future import of trichlorfon to the Union.

(5) Short-chain chlorinated paraffins (SCCPs) have been added to Annex III to the Convention as industrial chemicals. The production, placing on the market and use of SCCPs are prohibited, subject to specific derogations, under Regulation (EC) No 850/2004 of the European Parliament and of the Council ([5]). Therefore, consent under the Convention should be given subject to specified conditions.

([1]) OJ L 201, 27.7.2012, p. 60.
([2]) OJ L 396, 30.12.2006, p. 1.
([3]) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).
([4]) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).
([5]) Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

(6) Tributyltin compounds have been added to Annex III to the Convention as industrial chemicals. The placing on the market and use of tributyltin compounds as industrial chemicals are allowed, subject to compliance with the conditions set out in Regulation (EC) No 1907/2006, in particular the restriction set out in Annex XVII to that Regulation on the manufacture, placing on the market and use of organostannic compounds. Therefore, consent under the Convention should be given subject to those conditions.

(7) The placing on the market and use of ethylene oxide as a component in plant protection products are prohibited under Regulation (EC) No 1107/2009. The making available on the market and use of ethylene oxide as a component in biocidal products in accordance with Regulation (EU) No 528/2012 are only allowed with regard to certain products pursuant to Commission Delegated Regulation (EU) No 1062/2014 ([1]). According to Article 89(2) of Regulation (EU) No 528/2012 Member States can still decide whether and under which conditions such products are to be authorised in their territory.

(8) After the adoption of the import response for ethylene oxide laid down in Annex II to Commission Implementing Decision C(2016) 747 ([2]) there have been some regulatory developments in the Member States with regard to the making available on the market and use of ethylene oxide. Therefore, Implementing Decision C(2016) 747 should be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

The import responses for carbofuran, trichlorfon, short-chain chlorinated paraffins and tributyltin compounds are set out in Annex I.

Article 2

Annex II to Implementing Decision C(2016) 747 is replaced by Annex II to this Decision.

Done at Brussels, 10 October 2018.

For the Commission

Karmenu VELLA

Member of the Commission

([1]) Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

([2]) Commission Implementing Decision C(2016) 747 of 11 February 2016 adopting Union import decisions for certain chemicals pursuant to Regulation (EU) No 649/2012 of the European Parliament and of the Council and amending Commission Decisions 2005/416/EC and 2009/966/EC (OJ C 61, 17.2.2016, p. 5).

ANNEX I

Import response for carbofuran

Country:

European Union
(Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

SECTION 1 IDENTITY OF CHEMICAL

1.1 **Common name** Carbofuran

1.2 **CAS number** 1563-66-2

1.3 **Category**

☒ Pesticide

☐ Industrial

☐ Severely hazardous pesticide formulation

SECTION 2 INDICATION REGARDING PREVIOUS RESPONSE, IF ANY

2.1 ☒ This is a first time import response for this chemical in the country.

2.2 ☐ This is a modification of a previous response.
Date of issue of the previous response: .....

SECTION 3 RESPONSE REGARDING FUTURE IMPORT

☒ **Final decision (Fill in section 4 below)** OR ☐ **Interim response (Fill in section 5 below)**

SECTION 4 FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES

4.1 ☒ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☒ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☒ Yes ☐ No

4.2 ☐ **Consent to import**

4.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

4.4 **National legislative or administrative measure upon which the final decision is based**

Description of the national legislative or administrative measure:

In the Union, it is prohibited to place on the market or use plant protection products containing carbofuran, since that active substance has not been approved under Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1). Furthermore, it is prohibited to make available on the market or use biocidal products containing carbofuran, since that active substance has not been approved pursuant to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

SECTION 5 INTERIM RESPONSE

5.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

5.2 ☐ **Consent to import**

5.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

5.4 **Indication of active consideration in order to reach a final decision**

Is a final decision under active consideration? ☐ Yes ☐ No

5.5 **Information or assistance requested in order to reach a final decision**

The following additional information is requested from the Secretariat:

The following additional information is requested from the country that notified the final regulatory action:

The following assistance is requested from the Secretariat in evaluating the chemical:

SECTION 6 RELEVANT ADDITIONAL INFORMATION, WHICH MAY INCLUDE:

Is this chemical currently registered in the country?	☐ Yes	☒ No
Is this chemical manufactured in the country?	☐ Yes	☒ No
If yes to either one of these questions:		
Is this intended for domestic use?	☐ Yes	☐ No
Is this intended for export?	☐ Yes	☐ No

Other remarks

In accordance with Regulation (EC) No 1272/2008, which implements the UN Globally Harmonised System of Classification and Labelling of Chemicals in the EU, carbofuran is classified as: Acute Toxicity 2* – H 300 — Fatal if swallowed. Acute Toxicity 2* – H 330 — Fatal if inhaled. Aquatic Acute 1 – H 400 — Very toxic to aquatic life. Aquatic Chronic 1 – H410 — Very toxic to aquatic life with long lasting effects. (* = This classification shall be considered as a minimum classification)

SECTION 7 DESIGNATED NATIONAL AUTHORITY

Institution	European Commission, DG Environment
Address	Rue de la Loi 200, 1049 Brussels, Belgium
Name of person in charge	Dr Juergen Helbig
Position of person in charge	International Chemicals Policy Coordinator
Telephone	+32 22988521
Telefax	+32 22967616
Email address	Juergen.Helbig@ec.europa.eu

Date, signature of DNA and official seal: .....

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Import response for trichlorfon

Country:

European Union
(Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

SECTION 1 IDENTITY OF CHEMICAL

1.1 **Common name** Trichlorfon

1.2 **CAS number** 52-68-6

1.3 **Category**

☒ Pesticide

☐ Industrial

☐ Severely hazardous pesticide formulation

SECTION 2 INDICATION REGARDING PREVIOUS RESPONSE, IF ANY

2.1 ☒ This is a first time import response for this chemical in the country.

2.2 ☐ This is a modification of a previous response.
Date of issue of the previous response: .....

SECTION 3 RESPONSE REGARDING FUTURE IMPORT

☒ **Final decision (Fill in section 4 below)** OR ☐ **Interim response (Fill in section 5 below)**

SECTION 4 FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES

4.1 ☒ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☒ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☒ Yes ☐ No

4.2 ☐ **Consent to import**

4.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

4.4 **National legislative or administrative measure upon which the final decision is based**

Description of the national legislative or administrative measure:

In the European Union, it is prohibited to place on the market or use plant protection products containing trichlorfon, since that active substance has not been approved under Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1). Furthermore, it is prohibited to make available on the market or use biocidal products containing trichlorfon, since that active substance has not been approved pursuant to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

SECTION 5 INTERIM RESPONSE

5.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

5.2 ☐ **Consent to import**

5.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

5.4 **Indication of active consideration in order to reach a final decision**

Is a final decision under active consideration? ☐ Yes ☐ No

5.5 **Information or assistance requested in order to reach a final decision**

The following additional information is requested from the Secretariat:

The following additional information is requested from the country that notified the final regulatory action:

The following assistance is requested from the Secretariat in evaluating the chemical:

SECTION 6 RELEVANT ADDITIONAL INFORMATION, WHICH MAY INCLUDE:

Is this chemical currently registered in the country?	☐ Yes	☒ No
Is this chemical manufactured in the country?	☐ Yes	☒ No
If yes to either one of these questions:		
Is this intended for domestic use?	☐ Yes	☐ No
Is this intended for export?	☐ Yes	☐ No

Other remarks

In accordance with Regulation (EC) No 1272/2008, which implements the UN Globally Harmonised System of Classification and Labelling of Chemicals in the EU, trichlorfon is classified as:

Acute Toxicity 4* – H 302 — Harmful if swallowed.

Skin Sensitisation 1 – H 317 — May cause an allergic skin reaction.

Aquatic Acute 1 – H 400 — Very toxic to aquatic life.

Aquatic Chronic 1 – H 410 — Very toxic to aquatic life with long lasting effects.

(* = This classification shall be considered as a minimum classification)

SECTION 7 DESIGNATED NATIONAL AUTHORITY

Institution	European Commission, DG Environment
Address	Rue de la Loi 200, 1049 Brussels, Belgium
Name of person in charge	Dr Juergen Helbig
Position of person in charge	International Chemicals Policy Coordinator
Telephone	+32 22988521
Telefax	+32 22967616
Email address	Juergen.Helbig@ec.europa.eu

Date, signature of DNA and official seal: .....

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Import response for short-chain chlorinated paraffins

Country:

European Union
(Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

SECTION 1 IDENTITY OF CHEMICAL

1.1 **Common name**: Short-chain chlorinated paraffins

1.2 **CAS number**: 85535-84-8

1.3 **Category**

☐ Pesticide

☒ Industrial

☐ Severely hazardous pesticide formulation

SECTION 2 INDICATION REGARDING PREVIOUS RESPONSE, IF ANY

2.1 ☒ This is a first time import response for this chemical in the country.

2.2 ☐ This is a modification of a previous response.
Date of issue of the previous response: .....

SECTION 3 RESPONSE REGARDING FUTURE IMPORT

☒ **Final decision (Fill in section 4 below)** OR ☐ **Interim response (Fill in section 5 below)**

SECTION 4 FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES

4.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

4.2 ☐ **Consent to import**

4.3 ☒ **Consent to import only subject to specified conditions**

The specified conditions are:

In the European Union, the production, placing on the market and use of short-chain chlorinated paraffins (SCCPs), whether on their own, in preparations or as constituents of articles, are prohibited pursuant to Regulation (EC) No 850/2004. This prohibition also includes the import of short-chain chlorinated paraffins (SCCPs). By way of derogation, the placing on the market and use (including the import) of substances or preparations containing SCCPs in concentrations lower than 1 % by weight is allowed.

Are the conditions for import of the chemical the same for all sources of import? ☒ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☒ Yes ☐ No

4.4 **National legislative or administrative measure upon which the final decision is based**

Description of the national legislative or administrative measure:

Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7) stipulates that the production, placing on the market and use of short-chain chlorinated paraffins (SCCPs), whether on their own, in preparations or as constituents of articles, are prohibited. By way of derogation, the production, placing on the market and use of substances or preparations containing SCCPs in concentrations lower than 1 % by weight or articles containing SCCPs in concentrations lower than 0,15 % by weight are allowed.

SECTION 5 INTERIM RESPONSE

5.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

5.2 ☐ **Consent to import**

5.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

5.4 **Indication of active consideration in order to reach a final decision**

Is a final decision under active consideration? ☐ Yes ☐ No

5.5 **Information or assistance requested in order to reach a final decision**

The following additional information is requested from the Secretariat:

The following additional information is requested from the country that notified the final regulatory action:

The following assistance is requested from the Secretariat in evaluating the chemical:

SECTION 6 RELEVANT ADDITIONAL INFORMATION, WHICH MAY INCLUDE:

Is this chemical currently registered in the country?	☐ Yes	☒ No
Is this chemical manufactured in the country?	☐ Yes	☒ No
If yes to either one of these questions:		
Is this intended for domestic use?	☐ Yes	☐ No
Is this intended for export?	☐ Yes	☐ No

Other remarks

In accordance with Regulation (EC) No 1272/2008, which implements the UN Globally Harmonised System of Classification and Labelling of Chemicals in the EU, short-chain chlorinated paraffins are classified as: Carc. 2 – H 351 — Suspected of causing cancer. Aquatic Acute 1 – H 400 — Very toxic to aquatic life. Aquatic Chronic 1 – H 410 — Very toxic to aquatic life with long lasting effects.

SECTION 7 DESIGNATED NATIONAL AUTHORITY

Institution	European Commission, DG Environment
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Name of person in charge	Dr Juergen Helbig
Position of person in charge	International Chemicals Policy Coordinator
Telephone	+32 22988521
Telefax	+32 22967616
Email address	Juergen.Helbig@ec.europa.eu

Date, signature of DNA and official seal: .....

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Import response for tributyltin compounds

Country:

European Union
(Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

SECTION 1 IDENTITY OF CHEMICAL

1.1 **Common name**

Tributyltin compounds, i.e. all tributyltin compounds including
— Tributyltin oxide
— Tributyltin fluoride
— Tributyltin methacrylate
— Tributyltin benzoate
— Tributyltin chloride
— Tributyltin linoleate
— Tributyltin naphthenate

1.2 **CAS number**

56-35-9 — Tributyltin oxide
1983-10-4 — Tributyltin fluoride
2155-70-6 — Tributyltin methacrylate
4342-36-3 — Tributyltin benzoate
1461-22-9 — Tributyltin chloride
24124-25-2 — Tributyltin linoleate
85409-17-2 — Tributyltin naphthenate

1.3 **Category**

☐ Pesticide
☒ Industrial
☐ Severely hazardous pesticide formulation

SECTION 2 INDICATION REGARDING PREVIOUS RESPONSE, IF ANY

2.1 ☒ This is a first time import response for this chemical in the country.

2.2 ☐ This is a modification of a previous response.
Date of issue of the previous response: .....

SECTION 3 RESPONSE REGARDING FUTURE IMPORT

☒ **Final decision (Fill in section 4 below)** OR ☐ **Interim response (Fill in section 5 below)**

SECTION 4 FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES

4.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

4.2 ☐ **Consent to import**

4.3 ☒ **Consent to import only subject to specified conditions**

The specified conditions are:

In the European Union, the placing on the market and use (including import) of tributyltin compounds as industrial chemicals are allowed, subject to compliance with the conditions set out in Regulation (EC) No 1907/2006, in particular the restriction with regard to organostannic compounds laid down in Annex XVII to that Regulation, which stipulates that organostannic compounds:

1. Shall not be placed on the market, or used, as substances or in mixtures where the substance or mixture is acting as biocide in free association paint.
2. Shall not be placed on the market, or used, as substances or in mixtures where the substance or mixture acts as biocide to prevent the fouling by micro-organisms, plants or animals of:
   (a) all craft irrespective of their length intended for use in marine, coastal, estuarine and inland waterways and lakes;
   (b) cages, floats, nets and any other appliances or equipment used for fish or shellfish farming;
   (c) any totally or partly submerged appliance or equipment.
3. Shall not be placed on the market, or used, as substances or in mixtures where the substance or mixture is intended for use in the treatment of industrial waters.

Are the conditions for import of the chemical the same for all sources of import? ☒ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☒ Yes ☐ No

4.4 **National legislative or administrative measure upon which the final decision is based**

Description of the national legislative or administrative measure:

Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1), in particular the restriction with regard to organostannic compounds laid down in Annex XVII to that Regulation stipulates that the placing on the market and use (including import) of tributyltin compounds as industrial chemicals are allowed, subject to compliance with certain conditions.

SECTION 5 INTERIM RESPONSE

5.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

5.2 ☐ **Consent to import**

5.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☐ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☐ Yes ☐ No

5.4 **Indication of active consideration in order to reach a final decision**

Is a final decision under active consideration? ☐ Yes ☐ No

5.5 **Information or assistance requested in order to reach a final decision**

The following additional information is requested from the Secretariat:

The following additional information is requested from the country that notified the final regulatory action:

The following assistance is requested from the Secretariat in evaluating the chemical:

SECTION 6 RELEVANT ADDITIONAL INFORMATION, WHICH MAY INCLUDE:

Is this chemical currently registered in the country? ☒ Yes ☐ No

Is this chemical manufactured in the country? ☒ Yes ☐ No

If yes to either one of these questions:

Is this intended for domestic use? ☒ Yes ☐ No

Is this intended for export? ☒ Yes ☐ No

Other remarks

In accordance with Regulation (EC) No 1272/2008, which implements the UN Globally Harmonised System of Classification and Labelling of Chemicals in the EU, tributyltin compounds are classified as follows (It should be noted that the below classification applies to all tributyltin compounds with the exception of those individual compounds that have a different classification):

Acute Tox. 3 – H 301 (Toxic if swallowed.)

Acute Tox. 4* – H 312 (Harmful in contact with skin.)

Skin Irrit. 2 – H 315 (Causes skin irritation.)

Eye Irrit. 2 – H 319 (Causes serious eye irritation.)

STOT RE 1 – H 372 ** (Causes damage to organs through prolonged or repeated exposure.)

Aquatic Acute 1 – H 400 (Very toxic to aquatic life.)

Aquatic Chronic 1 – H 410 (Very toxic to aquatic life with long lasting effect.)

Repr. 1B – H360FD (May damage fertility. May damage the unborn child.)

(* = This classification shall be considered as a minimum classification.)

(** = Information on the route of exposure is not available.)

SECTION 7 DESIGNATED NATIONAL AUTHORITY

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Position of person in charge	International Chemicals Policy Coordinator
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Email address	Juergen.Helbig@ec.europa.eu

Date, signature of DNA and official seal: .....

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ANNEX II

Import response for ethylene oxide

Country:

European Union
(Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)

SECTION 1 IDENTITY OF CHEMICAL

1.1 **Common name** Ethylene oxide

1.2 **CAS number** 75-21-8

1.3 **Category**

☒ Pesticide

☐ Industrial

☐ Severely hazardous pesticide formulation

SECTION 2 INDICATION REGARDING PREVIOUS RESPONSE, IF ANY

2.1 ☐ This is a first time import response for this chemical in the country.

2.2 ☒ This is a modification of a previous response.
Date of issue of the previous response: 03/2017 .....

SECTION 3 RESPONSE REGARDING FUTURE IMPORT

☒ **Final decision (Fill in section 4 below)** OR ☐ **Interim response (Fill in section 5 below)**

SECTION 4 FINAL DECISION, PURSUANT TO NATIONAL LEGISLATIVE OR ADMINISTRATIVE MEASURES

4.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

4.2 ☐ **Consent to import**

4.3 ☒ **Consent to import only subject to specified conditions**

The specified conditions are:

For plant protection products

In the European Union, it is prohibited to place on the market (including import) or use plant protection products containing ethylene oxide, since that active substance has not been approved under Regulation (EC) No 1107/2009.

For biocidal products

Ethylene oxide is under review in accordance with Regulation (EU) No 528/2012 for uses covered by product type 2 and therefore the making available on the market and use of biocidal products containing ethylene oxide is only allowed for uses covered by product-type 2, which are disinfectants and algaecides not intended for direct application to humans or animals as defined in Annex V to that Regulation.

Responses of individual Member States of the European Union for ethylene oxide in biocidal products falling within product-type 2 are as follows:

Member States that consent to import, subject to any national restrictions that may apply: Belgium, Denmark, France, Germany, Estonia, Ireland, Latvia, Luxembourg, Sweden, UK.

Member States that consent to import, subject to prior written authorisation: Austria, Bulgaria, Croatia, Finland, Hungary, Italy, Lithuania, Netherlands, Poland, Portugal, Slovenia.

Member States that consent to import only for sterilisation of surgical tools in accordance with Council Directive 93/42/EC concerning medical devices (OJ L 169, 12.7.1993, p. 1), subject to prior written authorisation: Cyprus, Greece, Slovakia, Spain, Romania.

Member States that do not consent to import: Czech Republic, Malta.

Are the conditions for import of the chemical the same for all sources of import? ☒ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☒ Yes ☐ No

4.4 **National legislative or administrative measure upon which the final decision is based**

Description of the national legislative or administrative measure:

Plant protection products

Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1) prohibits to place on the market or use plant protection products containing ethylene oxide.

Biocidal products

Ethylene oxide has not been approved as an active substance under Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1). It is, however, under review and listed in Annex II to Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1). Consequently, in the European Union, the making available on the market and use of biocidal products containing ethylene oxide is only allowed for uses covered by product-type 2 (disinfectants and algaecides not intended for direct application to humans or animals) as defined in Annex V to Regulation (EU) No 528/2012.

SECTION 5 INTERIM RESPONSE

5.1 ☐ **No consent to import**

Is the import of the chemical from all sources simultaneously prohibited? ☐ Yes ☐ No

Is domestic production of the chemical for domestic use simultaneously prohibited? ☐ Yes ☐ No

5.2 ☐ **Consent to import**

5.3 ☐ **Consent to import only subject to specified conditions**

The specified conditions are:

Are the conditions for import of the chemical the same for all sources of import? ☒ Yes ☐ No

Are the conditions for domestic production of the chemical for domestic use the same as for all imports? ☒ Yes ☐ No

5.4 **Indication of active consideration in order to reach a final decision**

Is a final decision under active consideration? ☒ Yes ☐ No

5.5 **Information or assistance requested in order to reach a final decision**

The following additional information is requested from the Secretariat:

The following additional information is requested from the country that notified the final regulatory action:

The following assistance is requested from the Secretariat in evaluating the chemical:

SECTION 6 RELEVANT ADDITIONAL INFORMATION, WHICH MAY INCLUDE:

Is this chemical currently registered in the country? ☒ Yes ☐ No

Is this chemical manufactured in the country? ☒ Yes ☐ No

If yes to either one of these questions:

Is this intended for domestic use? ☒ Yes ☐ No

Is this intended for export? ☒ Yes ☐ No

Other remarks

In accordance with Regulation (EC) No 1272/2008, which implements the UN Globally Harmonised System of Classification and Labelling of Chemicals in the EU, ethylene oxide is classified as: Press. Gas Flam. Gas 1 – H 220 – Extremely flammable gas. Skin Irrit. 2 – H 315 – Causes skin irritation. Eye Irrit. 2 – H 319 – Causes serious eye irritation. Acute Tox. 3* – H 331 – Toxic if inhaled. STOT SE 3 – H 335 – May cause respiratory irritation. Muta. 1B – H 340 – May cause genetic defects. Carc. 1B – H 350 – May cause cancer. (* = This classification shall be considered as a minimum classification)

SECTION 7 DESIGNATED NATIONAL AUTHORITY

Institution	European Commission, DG Environment
Address	Rue de la Loi 200, 1049 Brussels, Belgium
Name of person in charge	Dr Juergen Helbig
Position of person in charge	International Chemicals Policy Coordinator
Telephone	+32 22988521
Telefax	+32 22967616
Email address	Juergen.Helbig@ec.europa.eu

Date, signature of DNA and official seal: .....

PLEASE RETURN THE COMPLETED FORM TO:

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00100 Rome
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Email: pic@pic.int

OR

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V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case M.9050 — Hammerson/M&G/Highcross)

Candidate case for simplified procedure

(Text with EEA relevance)

(2018/C 376/07)

1. On 11 October 2018, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]).

This notification concerns the following undertakings:

— Hammerson plc ('Hammerson', United Kingdom),

— M&G Limited ('M&G', United Kingdom), belonging to Prudential plc ('Prudential', United Kingdom).

Hammerson and M&G acquire within the meaning of Article 3(1)(b) and Article 3(4) of the Merger Regulation joint control of the whole of Highcross shopping centre in Leicester (United Kingdom), which is currently solely controlled by Hammerson.

The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Hammerson: commercial real estate development and ownership-management of retail property in Europe. Its portfolio includes investments in prime shopping centres in the United Kingdom, Ireland and France, retail parks in the United Kingdom and premium retail outlets across Europe,

— for M&G: wholly-owned indirect subsidiary of Prudential, an international financial services group. Amongst other investments, Prudential invests on behalf of its clients in property, primarily through the M&G Real Estate brand.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the Council Regulation (EC) No 139/2004 ([2]) it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9050 — Hammerson/M&G/Highcross

([1]) OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').
([2]) OJ C 366, 14.12.2013, p. 5.

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

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